

STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Cecilia K. Baird)	
	Map 131-13-0, Parcel 34.00)	Davidson County
	Residential Property)	
	Tax Year 2005 & 2006)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$165,000	\$293,200	\$458,200	\$114,550

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on February 13, 2006.¹

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on February 8, 2007, at the Davidson County Property Assessor's Office. Present at the hearing were Steve Nelson, Agent for the taxpayer and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence on a 1.92 acre tract of land located at 4621 Skymount Drive in Nashville, Tennessee.

The taxpayer's Agent, Mr. Nelson, contends that the property is worth \$355,000 based on his paired data analysis using five (5) comparable sales. Mr. Nelson states that the subject property continues to have foundation problems.² Mr. Nelson also stated that the comparable properties he chose to use in his analysis were chosen because they sit on a slope as does the subject.

The assessor submitted a paired data analysis using four (4) comparable sales to support the Davidson County Board's value.

The germane issue is the value of the property as of January 1, 2005 and January 1, 2006. The basis of valuation as stated in T.C.A. § 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value,

¹ Appeal had been electronically filed within the proper time frame.

² Mr. Nelson did not produce any engineering report to support this allegation nor give an indication of the monetary effect on the value of the subject.

for purposes of sale between a willing seller and a willing buyer without consideration of speculative values”

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$458,200 based upon the presumption of correctness from the Davidson County Board of Equalization.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer (or in this case, his representative, Mr. Nelson). See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn. App. 1981)

With respect to the issue of market value, the administrative judge finds that Mr. Nelson simply introduced insufficient evidence to affirmatively establish the market values of subject property as of January 1, 2005 and January 1, 2006, the relevant assessment dates pursuant to Tenn. Code Ann. § 67-5-504(a).

In analyzing the arguments of the taxpayer, the administrative judge must also look to the applicable and acceptable standards in the industry when comparing the sales of similar properties as the taxpayer did here.

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then **adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable**. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values. [Emphasis supplied] Appraisal Institute, *The Appraisal of Real Estate*

at 422 (12th ed. 2001). *Andrew B. & Majorie S. Kjellin*, (Shelby County, 2005).

In this case in making the adjustments in reconciling the value indicators for the comparable sales Mr. Nelson missed some viable differences³. In this case the taxpayer has not met his burden of proof.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax years 2005 & 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$165,000	\$293,200	\$458,200	\$114,550

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

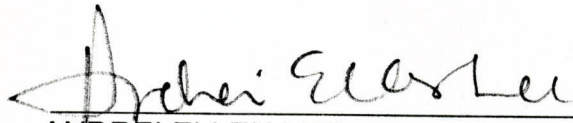
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

³ The adjustment process is an analysis designed to show what the comparable property would have sold for if these differences were eliminated. *Property Assessment Valuation*, IAAO, 2nd Ed., 1996

ENTERED this 29th day of March, 2007.

A handwritten signature in black ink, appearing to read "Andrei Ellen Lee", written over a horizontal line.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. L. Stephen Nelson
Jason Poling, Metro. Tax Assessor's Office